



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/253,317	02/19/99	LAM	VB 09/253-317

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HM22/0530

EXAMINER
FAY, Z

ART UNIT	PAPER NUMBER
1414	10

DATE MAILED:

05/30/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trad marks**

# Office Action Summary

Application No.  
**09/253,317**

Applicant(s)  
**Lam et al.**

Examiner  
**Zohreh Fay**

Group Art Unit  
**1614**



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-34 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-34 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4,7

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

Claims 1-34 are presented for examination.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-34 are rejected under 35 U.S.C. 103 as being unpatentable over Dong et al. And Patrick et al.

Dong et al. Teach the use of a drug, progesterone in an extended release delivery system of multi layers for hormone replacement therapy. Patrick et al. Teach the use of the claimed compound methylphenidate in an extended release form.

One skilled in the art would have been motivated to employ the teachings of the above references since they relate to the use of the multi layer drug delivery system as claimed herein and also the use of the claimed compounds in a sustained release formulation. The above references make clear that the claimed system of delivery is old and well known. Applicant has presented no evidence to establish the unexpected or unobvious nature of the claimed invention, and as such, claims 1-34 are properly rejected under 35 U.S.C. 103.

Applicant is requested to submit an English translation of the prior art cited on PTO-1449 filed on January 10, 2000.

Art Unit:

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examine Fay whose telephone number is (703) 308-4604.

ZOHREH FAY  
PRIMARY EXAMINER  
GROUP 1200



Z.F

May 26, 2000